IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CONTEMPT PETITION NO.174 OF 1998

Chandrakant Balu Dole ...Petitioner

vs.

Prithviraj Bias & Ors. ...Respondents

Mr.A.A.Garge h/f Mr.R.S.Apte for the Petitioner
Mr.A.R.Patil,A.G.P. for State
Mr.A.S.Rao for Respondent no.2.

CORAM: A.S.OKA,J.
DATE : APRIL 4,2007.

P.C.:

1. Heard learned Counsel for the parties. In a complaint filed by the Petitioner, the learned Member of the Industrial Court has passed the following order :

". The Respondent is hereby directed to cease and desist from the above said unfair labour practices within 15 days from the date of this order and to make the complainant permanent with effect from 2nd January 1968 and give all the benefits of permanency from that date.

. The Respondent is also directed to give promotion to the complainant as per his seniority on the basis of his permanency with effect from 2nd January 1968 and to place him on the appropriate number in the

seniority list in that behalf."

2. The said order was confirmed by this court in a Writ Petition. Contempt Petition No.251 of 1995 was filed by the Petitioner alleging the breach of aforesaid order by the Respondents. The said Contempt Petition was disposed of by passing the following order :

". Mr.Apte learned counsel for the petitioner submits that though by and large the order passed by the Industrial Court on 4.8.1994 has been complied with, yet the fixation of pay of the petitioner has not been done in accordance with the directions given by the Industrial Court and that arrears towards that are still outstanding. He further submits that the promotion order issued by the respondents is not in conformity with the directions given by the Industrial Court.

. Mr.Rao submits that fixation of pay of the petitioner has been done in accordance with the rules and yet if something is needed to be done in terms of the Industrial Court’s order, a representation being made by the petitioner within one week from today, the respondents shall pass an appropriate order within four weeks therefrom. Mr.Rao further submits that

deficiency, if any, in the promotion order also shall be rectified in terms of the order passed by the Industrial Court and the grievance of the petitioner would not survive.

. Taking into account the aforesaid contentions of learned counsel for the parties, no further directions are required in this contempt petition and the same is accordingly, dismissed. Rule discharged."

3. It is not in dispute that the Petitioner did make a representation as per the aforesaid order and the same was decided by the first Respondent by order dated 19th January 1996.

4. The submissions of the learned Counsel for the Petitioner is that the order dated 19th January 1996 is contrary to the order dated 4th August 1994 passed by the learned Member of the Industrial Court and therefore, there is a contempt committed by the Respondents and in particular by the first Respondent.

5. In the earlier Contempt Petition filed by the Petitioner this court recorded a statement of the learned Counsel for the Petitioner that by and large the order dated 4th August 1994 passed by the learned Member of the Industrial Court has been

complied with. Some grievance was made regarding the fixation of the pay and non payment of outstanding arrears. This dispute was taken care of by the earlier order passed in Contempt Petition by recording a statement of the learned Counsel for the first Respondent that the representation will be decided. Accordingly, the representation has been decided and it is held while deciding the representation that the complete effect has been given to the order of the Industrial Court. In view of the order passed in earlier Contempt Petition and the order passed on the representation made by the Petitioner, by no stretch of imagination it can be stated that there is any wilful or deliberate breach on the part of the concerned Respondents of the order passed by the industrial Court. Therefore, as of today, no case is made out for taking any action under the Contempt of Courts Act,1971 against the contemnors.

6. It must be however stated that if according to the Petitioner order dated 19th January 1996 is erroneous, it is for the Petitioner to adopt appropriate remedy against the said order.

7. Notice of contempt issued against the contemnors is discharged. Petition is disposed of.

JUDGE